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THE THEORY AND PRACTICE OF TRADE UNIONISM

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THE THEORY AND PRACTICE OF TRADE UNIONISM

BY

JOHN H. GREENWOOD, B.Sc.

OF THE INNER TEMPLE, BARRISTER-AT-LAW, AUTHOR OF "THE LAW RELATING TO TRADE UNIONS," "AMOUNT OF COMPENSATION AND REVIEW OF WEEKLY PAYMENTS UNDER THE WORKMEN'S COMPENSATION ACT, 1906"

WITH A PREFACE BY

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MAR 11 1953

PREFACE

By SIDNEY WEBB

IN the following pages the reader will find summarised in convenient form the greater part of the ideas and many of the facts that my wife and I expounded in the thousand pages of *Industrial Democracy*, a ponderous volume which has, I fear, not found its way on to many workmen's bookshelves. I think that Mr. Greenwood has done the summarising very well, but he has naturally taken the analysis in his own way. He is entitled to his own views, and I must ask his readers not hastily to assume that all his statements and opinions are those of my wife and myself. Indeed, those who are sufficiently interested in any particular point to doubt its accuracy, or to question its validity, will naturally feel bound, before they pronounce judgment upon it, or before they quote it as ours, to look up exactly what stands printed in the *History of Trade Unionism*, or in *Industrial Democracy* itself.

The subject is so important that I have no hesitation in commending this little book to every workman, every working woman, every Trade Unionist, and every Socialist in the English-speaking world.

Trade Unionism, which has during the past twenty years grown enormously in membership and funds, not in the United Kingdom only, but also in Germany, France, Austria, Italy, Belgium, Denmark, and the United States, calls more than ever for careful study by those concerned with the interests of the people. In the United Kingdom, indeed, it is scarcely too much to say that Trade Unionism in these years—as in 1824–5, 1867–76, and 1901–6—stands once more at a crisis in its fate. The Trade Unions see their constitution and legal status impugned by the

Osborne Judgment; they find their attempts to cope with the employers very largely counteracted by the increasing consolidation of the capitalist interests; and they have to face the fact that the development of such Government measures as Sickness and Unemployment Insurance may, if not carefully safeguarded, seriously undermine the Trade Union position. On the other hand, the growing interest in social politics, and the increasing influence in Parliament, of the manual-working wage-earners as a class, and the constantly rising tide of Socialist thought, combine to produce an impression in some minds that Trade Unionism, as a social force, is becoming spent and antiquated; and that it is destined, like "capitalism" itself, to pass away as we advance towards a Co-operative Commonwealth. This impression is, in my judgment, profoundly erroneous. I believe that an organisation of the wage-earners by trades, and the maintenance of a strong and effective Trade Unionism, is (and must always continue) indispensable to a well-ordered Democratic State. So far from being injurious to the community, or restrictive of wealth-production, the Trade Unionism of this country has, notwithstanding many errors, by common consent among those at all competent to express an opinion, contributed greatly to its present prosperity. So far is Trade Unionism from being antiquated, or a spent force, that it remains, in my judgment, a vitally important agent for the maintenance of the Standard of Life. And so far is it, in my opinion, from being inconsistent with Socialism, or from being destined to pass away as we approach towards a Co-operative Commonwealth, that Trade Union organisation, as has been fully explained in *Industrial Democracy*, has a permanent part to play even in a completely Socialist community; that is to say, where the land and all the instruments of production are owned and directed by the community itself.

For these reasons Trade Unionism, with all its complications and difficulties, demands our most careful study. But just now, in England, this study has been made more than ever necessary by the Osborne Judgment, and by the campaign of education and agitation which must be

maintained until Parliament has once more settled what position it means Trade Unions to occupy.

What is the meaning of the Osborne Judgment? Trade Unionists have, during the whole two centuries that their organisations have existed, relied on three different methods or instruments for establishing and enforcing those Common Rules in industrial relations, upon which depends any real maintenance of the Standard of Life. These three Trade Union instruments, which have certainly not been more than have been needed to overcome the difficulties of the task, are the Method of Mutual Insurance, the Method of Collective Bargaining, and the Method of Legal Enactment. What the House of Lords has decided, in its judicial capacity as the final Court of Appeal, is that only the second of these methods or instruments (Collective Bargaining) is clearly lawful; that the first (Mutual Insurance) is only partially and constructively lawful; and that the third (Legal Enactment) is prohibited to Trade Unions, even if all their members desire to employ it. Trade Unions may submit to the legal enactments presented to them by other organised social forces, but they must not themselves lift a finger in the matter. Thus, at one blow, the Osborne Judgment makes illegal—until Parliament shall have otherwise determined—at least one-half of the Trade Union activities described in our *History of Trade Unionism* and *Industrial Democracy*, and summarised in this volume.

Unfortunately, the average newspaper writer, the "common or garden" Member of Parliament, and the ordinary workman apparently cannot get further on this matter than an impression that what the Osborne Judgment has prohibited is merely the levying on dissentient minorities of a compulsory contribution to the payment of "pledge-bound" members of a Labour Party. But, in reality, the gravest part of the matter is not the Labour Party, which can take care of itself; nor the "pledge-bound" candidate, for the so-called pledge is a futile absurdity which can quite well be dropped; nor the "Parliamentary levy," which Payment of Members would at once make obsolete; nor the rights of dissentient

minorities, which do not come in question either way, but, first and most important, the sudden and drastic and entirely unexpected destruction of the liberty of a Trade Union to do what it likes with its own money, so long as it does nothing unlawful; and secondly, the express prohibition to a Trade Union to take any part in political or Parliamentary proceedings, whether for or against any Factory, Mines, Railways, Shipping, Truck or other Act of Parliament whatsoever.

How could the Law Lords come to such an extraordinary decision? This is what it behoves all workmen, and especially all Trade Unionists, to understand, in order that they may be able to explain to the average journalist or Parliamentary candidate exactly what has got to be put right. The fatal danger is that (as happened after the Taff Vale Judgment in 1906) the Trade Unions may be fobbed off with a mere patch on the legislative garment. They must insist on a complete new Parliamentary coat. Nothing short of a new Trade Union constitution will really protect them against the lawyers and the judges, who, good honest men though they be, are nearly all of them lamentably ignorant of Trade Unionism, and, indeed, for the most part, a whole generation behind in their economics.

Now, the case of Osborne versus the Amalgamated Society of Railway Servants (in which one of the members of that Trade Union sought to restrain it from enforcing upon him a levy for the payment of the Labour Party Members of Parliament) came altogether before ten judges, and nine of them gave judgment in Mr. Osborne's favour. But they gave, for the most part, different reasons for their several decisions; and it is accordingly not quite easy to discover what is the law. It so happens, however, that six of the highest judges, including a majority of the Law Lords, agreed in a series of propositions; and it is this series of propositions (to the exclusion of the other opinions uttered by particular judges and not agreed to by the others) which must now be taken to be law. Any Trade Union doubting this fact runs the risk of being stopped by an injunction, and involved in costs, as soon as any recalcitrant member is put up (by some kind friend

of Labour) to take action. This series of propositions may be expressed as follows:—

1. That although Parliament has always avoided any explicit incorporation of Trade Unions, they must now, whether registered or unregistered, all be deemed to be corporate bodies, formed under statute, and therefore no longer unincorporated groups of individual persons.

2. That it follows by an undoubted principle of English law that any body corporate, formed under statute—even if its members are quite unaware of the fact—cannot lawfully do anything outside the purposes for which the statute has incorporated it, even if all its members consent.

3. That as the purposes for which Trade Unions are incorporated have to be found somewhere authoritatively stated, the definition of a Trade Union, which Parliament incidentally enacted in the Trade Union Act of 1876, must be taken to enumerate accurately and exhaustively all the purposes which any group of persons falling within that definition may, as a corporate body, lawfully pursue.

4. That the payment of Members of Parliament, and, indeed, any political action whatever, and therefore any support of or opposition to any bills in Parliament, not being mentioned in that definition as one of the lawful purposes of a Trade Union, and not being considered by the judges incidental to any of the purposes therein mentioned, cannot lawfully be undertaken by any Trade Union, even if the Trade Union was formed, from the outset, with this object duly expressed in its original rules, even if the Chief Registrar of Friendly Societies has registered these rules, and even if all the members agree and continue to desire that it shall be carried out.

This series of propositions is now law. You would do well to disbelieve anyone who casts doubt upon this fact. But even if the matter is in doubt, no Trade Union is safe until the doubt has been removed by a new Act of Parliament.

It is needless to point out that this declaration of the

law stops much more than the Parliamentary levy. It makes illegal all expenditure on Trades Councils and the Trade Union Congress. It makes illegal all expenditure on education, whether for libraries, lectures, or scholarships. It probably makes all Funeral Benefits illegal, if not, too, all Superannuation Benefits. It makes it for ever impossible for any group of workmen of the nature of a Trade Union to do lawfully anything that Parliament did not authorise thirty-five years ago. Lord Halsbury, who so long filled the high office of Lord Chancellor, put the matter very plainly in his judgment, and every Trade Unionist should read his words. "What is not within the ambit of that statute," he said, meaning the definition clause of the Trade Union Act of 1876, "is, I think, *prohibited* both to a corporation and to a combination." This means the destruction of that freedom to do as they chose, so long as they did nothing unlawful, which Francis Place and Joseph Hume won for Trade Unions in 1824, only to see it presently filched away again by the lawyers; of that liberty to combine which Mr. Frederic Harrison and "the Junta" of Trade Union leaders (see the *History of Trade Unionism*) again won for the Trade Unions in 1871; and of that "Freedom of Association" which was conceded by the Liberal Cabinet of 1868–74, and still more ungrudgingly by the Conservative Cabinet of 1874–80, to be now suddenly destroyed by the Court of Appeal and the Law Lords.

If the two and a quarter millions of Trade Unionists of the United Kingdom do not peremptorily insist that the House of Commons shall promptly put the matter right by a statute allowing Trade Unions the same freedom of combination for any lawful purpose that is allowed to Joint Stock Companies—including, therefore, the right to employ their own agents in or out of Parliament for any lawful purpose, and to pay their own officers to sit in the House of Commons if they choose—they will show themselves unworthy of the rights that their fathers won for them.

SIDNEY WEBB.

41, Grosvenor Road, Westminster,
February, 1911.

THE THEORY AND PRACTICE OF TRADE UNIONISM

CHAPTER I

THE FUNCTION OF THE TRADE UNION

UNTIL very recent times we were taught by the economist that wages were paid out of the national capital, and that, while any attempt of one section of wage-earners to increase their earnings could only succeed by lowering the earnings of the other sections, an attempt on the part of the whole wage-earning class to add to their remuneration could never, in the long run, be successful. Success, even if achieved, would be short-lived, for the decrease in that portion of our capital devoted to the provision of raw materials and machinery, and other instruments of production, would, by lessening the demand for labour, inevitably produce a rapid and disastrous reaction.

The theory of the "Wage Fund" is now abandoned, and with it must be abandoned all reasoned and unprejudiced opposition to Trade Unionism. Wages, like other incomes, are now known to depend upon the amount of aggregate revenue of a community, and not upon the amount of its capital. According to Professor Marshall, "the labour and capital of a country, acting on its natural resources, produce only a certain net aggregate of commodities, material and immaterial, including services of all kinds. This is the true net annual income or revenue of the country, or the National Dividend. . . . It is divided up into earnings of labour, interest of capital, and lastly the producer's surplus or rent of land and all other

differential advantages for production. It constitutes the whole of them, and the whole is distributed among them ; the larger it is the larger (other things being equal) will be the share of each agent of production."

Under a system where perfect competition prevails, the benefits which that competition brings will be enjoyed by the consumer, and by the owner of rent ; rent including not only rent of land, but rent of all the superior instruments of production, rent of ability being by no means excluded. The normal rate of wages earned by any class of workmen is determined by the operation of a principle identical with that which determines the rent of land. Students of Ricardo will remember that the rent of any land is the difference between the yield of that land, and the yield of land which only just pays for cultivation and is therefore said to be "on the margin of cultivation." Similarly in any industry or branch of industry the wages of the whole class of workmen tend to be no more than can be got by the marginal man, that is, the last man whom it just pays the employer to engage. The difference between the earnings of any workman and the earnings of this marginal man tends to go to the consumer, and to the owner of rent.

It thus follows, as Fleeming Jenkin pointed out, that unless the wage-earner takes steps to protect himself and to bargain as to his wages, he is, as regards the sale of his labour, in the position of one who sells goods by a forced sale, as in the case of bankruptcy. All classes of producers and distributors find their very existence depends upon their success in higgling and bargaining. The retail dealer bargains with the consumer, the wholesale dealer with the retailer on the one hand and with the manufacturer on the other, while the higgling which goes on perpetually between the captain of industry and his wage-earning operatives completes the chain.

A few moments' thought will satisfy the reader that in each of these bargains one of the parties is, apart from artificial aids, very largely at the mercy of the other. The disinclination of the consumer to pay half a crown for an article which he can get elsewhere for two shillings

irresistibly impels the shopkeeping class to cut their prices lower and lower. But the retailer does not bear the whole of this pressure ; he endeavours to transfer it to the wholesale man with whom he deals. And the position of the retail man, with regard to the wholesale man, is very much the same as that of the consumer with regard to the shopkeeper. To the natural advantage thus possessed by the retailer, must be added the advantage which his knowledge of the retail market and of the consumer's tastes gives him. The result is that the members of the wholesale class are always in danger of being worsted in the struggle which they ceaselessly wage with the retailing class. The wholesale man is, however, on firmer ground when he comes to deal with the manufacturer. He knows better than the manufacturer what the consumer wants, and he does not hesitate to trade on the manufacturer's comparative ignorance. The latter, immersed in the details of organisation and the management of men, does not possess in nearly so high a degree that bargaining skill which is the middleman's only means of existence, and he is more anxious to sell than the middleman is to buy. The manufacturing class are loud in their complaints of the cutting of prices to which they are forced to submit at the hands of the merchants, and they quite naturally endeavour to lessen the pressure on themselves by transferring it to other shoulders, namely, those of their operatives. The workman's ignorance of the state of the market and of the real demand for his services as contrasted with the employer's more certain knowledge ; his defective bargaining capacity pitted against the employer's skill in this particular kind of bargain ; his eagerness to be employed, in face of the employer's comparative indifference ;—all this places him in a position of hopeless weakness, of which the employer, urged by the competitive pressure from above, is not slow to avail himself.

Against the pressure thus created by the consumer's not unnatural and not necessarily reprehensible desire for cheapness each of the classes referred to has provided itself, or is provided by nature, with the means of pro-

tection. It is only necessary to enumerate them for their existence and effectiveness to be recognised. They include adulteration, misrepresentation of quality, the placing on the market of proprietary articles for which a demand has been created by advertisement, rings and combines, resort to the patent laws, the obtaining of such statutory monopolies as are granted under private Acts of Parliament to railway companies, gas and water companies, and tramway companies. How extensive is the protection secured to the manufacturing and kindred industries by this last-named method may be judged from the estimate that more than one-quarter of the capital of this country (not including land and buildings) is invested in such companies.

And now, seeing that the retail dealer, the wholesale dealer, and the manufacturer have all succeeded in building up around themselves bulwarks or dykes which, more or less effectively, protect them from being swept away in the rush of competition, we may, without arguing the question, assume that the wage-earner is also entitled to a "dyke" which will break the force of that competitive stream against which he is for ever striving.

To a certain extent he is protected by what we may call a natural provision. In the normal man there is a tendency to cling to his established standard of comfort—to that mode of life to which he is by birth and training accustomed—and this clinging is all the more tenacious, because it is unreasoning and often sub-conscious. The agricultural labourer who is reputed to "live" on 12s. per week revolts instinctively at the thought that he should eat and live as a Chinaman does. The engineer, accustomed to regard 36s. per week as a proper wage for men of his trade, although he might ultimately be forced by starvation to accept 15s. per week for doing engineer's work, would, when such an offer was first made to him, recoil from it, as an affront to his manhood.

This feeling is found in Trade Unionists and non-Unionists alike, and in trades where no combination exists. It extends even to hours of labour—thus, to take the building trade as an example, no man in that trade would consent,

under any pressure, to work constantly for fifteen hours a day. Mill said: "Where there is not in the people, or in some very large proportion of them, a resolute resistance to this deterioration—a determination to preserve an established standard of comfort—the condition of the poorest class sinks, even in a progressive state, to the lowest point which they will consent to endure."

The existence among any class of workmen of a common notion as to what constitutes a subsistence, and a determination to have this or nothing, is a tacit combination—a sort of universal strike, and where any class of workmen are strongly imbued with some such common notion of a standard of comfort, a great advantage is thereby given to that class in their bargaining with the employer.

But the natural "dyke" which this tacit and instinctive combination amongst workmen constitutes is defective in the following respects:—

1. Owing to the absence of any material support to the workers' stubbornness it is necessarily weak, and, under exceptional pressure, usually gives way.

2. Owing to the absence of deliberate concert it cannot be raised when the pressure of bad times is relieved, and it thus tends to become lower and lower.

3. The indefiniteness of this instinctive Standard of Life enables the employer to select the lowest standard and beat down the whole class gradually to that level.

Nevertheless, the instinct has never died. Perhaps it can, in Englishmen, be no more destroyed than can the instinct for liberty itself, and just as the clinging of the middle-class and aristocratic Whigs in Stuart times to the tradition of liberty resulted in our political constitution as we now know it, so the Whigs of the working class, urged on by this unconquerable desire for a decent Standard of Life and comfort, slowly, laboriously, and painfully brought into existence the Trade Union Movement.

With the Trade Union to guide him, the workman's notion of a desirable Standard of Life acquires a certainty and a definiteness through being expressed in terms of a precise and uniform demand for a Standard Rate of wages, a normal working day, and satisfactory provisions for

sanitation and safety. The Trade Unions, out of funds accumulated in good times, can, when trade is bad, by the grant of out-of-work pay, place their members beyond the necessity of accepting less than the Standard Rate of remuneration. By placing at the disposal of their members expert knowledge of trade affairs, and a high degree of bargaining skill, they can, whenever the circumstances of trade warrant it, bring about a positive raising of the Standard of Life.

Finally, by their influence on the Legislature, the Trade Unions can procure the passing of factory and other Acts, which secure absolutely from attack one element after another in the worker's standard of life.

CHAPTER II

THE CHIEF AIM OF THE TRADE UNION

WHERE workmen have organised themselves for the purpose of protecting from attack their existing Standard of Life, they first aim at establishing within their trade a Common Rule, that is to say, an agreement amongst the members of that trade as to the terms on which they will accept employment, and an understanding amongst them that no one shall engage himself on terms less favourable than these.

The most important factor in the workman's Standard of Life is, of course, his wages; and Trade Unions have, from the first, concentrated their powers on attempts to secure and maintain in their trade a Standard Rate of wages below which no member of the Union is expected to work. There are two common errors concerning the idea of a Standard Rate of wages which should be corrected at the outset.

1. The setting up of a Standard Rate does not mean an attempt to establish a dead level of equality of payment amongst the workers in the trade to which the standard applies; in other words the minimum wage is not, in theory, necessarily a maximum, nor is it so in fact. Thus

the Chief Inspector of Factories in Victoria, writing in 1902 of the results achieved by the Wages Boards instituted in that colony under an Act of 1896, said that in the clothing trade the minimum wage for adults was 45s. shillings a week for males, and 20s. for females, while the average rates actually paid were 53s. 6d. and 22s. 3d. respectively. Similar differences were found to exist in the boot, furniture, and shirt-making trades.

In many of the trades in England where the operatives are well organised it is a well-known fact that the employers offer a higher rate of wages to men of special skill, —and no objection to this practice is made by the Unions. The agreement between the Operative Stone-Masons and the London Central Master Builders' Association, and that between the Amalgamated Society of Tailors in London and the Master Tailors' Association are other examples in point. In fact, it will be difficult to find in this country a Trade Union which forbids its members to receive more than the Standard Rate or even discourages such a practice.

2. The distinction between wages and rate of wages must be kept clearly in mind. A uniform Standard Rate of wages in a trade does not mean equality of *wages*, even when it results in equality of *rate of payment*. The great majority of Trade Unionists—among them may be mentioned the Ironworkers, Steel Smelters, Coal Miners, Cotton Workers, Tailors, and Boot Makers—are engaged by the piece. The Standard Rate insisted on by these is not a definite sum per hour, but a list of piece-work rates. Clearly then in these cases the existence of a Standard Rate does not, with regard to the amount of wages received, put the skilful and industrious workman on the same level as the inefficient idler.

Even when the Standard Rate is a time-work rate, equality of remuneration is not implied. In the Plumber's, Bricklayer's, and Mason's trades, and in many others, skilled work is paid more highly than ordinary work; and firms doing high-class work attract the best class of workmen by offering a higher rate of pay. In other firms, though the men may all receive the same rate of pay and

the same wages, the superior workman gets the more agreeable and responsible work, and enjoys a greater measure of freedom from supervision. It must, however, be admitted that a Standard Time-work Rate does result in a nearer approach to uniformity than a Piece-work Rate. Nor can it be denied that there are those who think that the slow workman is, in equity, entitled to as much as the quick one, where both are equally conscientious and industrious. But Trade Unionists, as a body, have no fundamental objection to piece-work. More than sixty per cent of them insist upon it, and of the remainder quite one-third recognise both piece-work and time-work. There is thus only a small minority of the total number of organised workers who are pledged to the maintenance of the system of payment by time.

These differences in method of remuneration are due not so much to differences of Trade Union policy as to differences in the nature of the operations performed. All the Unions enumerated aim at uniformity in the rate of remuneration, but in some of the trades, the Cotton Spinning trade, for example, there is a constant tendency to "speeding up," which cannot always be detected by the operative. Indeed, the increase of speed, though appreciable after a time, is often imperceptible during any short period. If, therefore, the payment were by the day or the hour the employer would be in the enjoyment of an ever-increasing output, while the workman would find himself called upon to submit to an ever-increasing intensity of strain without any corresponding increase of remuneration. A constant readjustment of time-rates which would keep pace with the "speeding up" is clearly a practical impossibility; but by insisting on being paid according to the amount of yarn spun, the spinning operative, as well as the mill-owner, gets the benefit of any increasing speed. Similar considerations apply to weaving.

In the coal trade the employers, finding it impossible to exercise an effective supervision over the coal hewers, resorted to the "butty system." The "butty man" is a contractor in a small way, who agrees with the employer to hew out a certain quantity of coal for a definite sum,

employing his own men, and paying them by the day. The "butty man," working with all the strenuousness of the piece-worker, sets the pace for all the members of his gang, who are thus in reality working at piece-work intensity, while they only receive time-work pay. Such a system is nothing less than a fraud upon the workmen concerned, and to prevent such a fraud the Miners' Unions now usually insist upon piece-work rates for all hewers.

In other trades the insistence on payment for time is found to be more effective than piece-work lists for the protection of the Standard Rate. In the Engineering trade there is so great a multiplicity of kinds of work that where piece-work prevails a new contract has to be made for each job. As this contract must, of necessity, be left to the foreman and the individual workman, Collective Bargaining becomes impossible, and the door is at once opened to the dangers of individual bargaining. Indeed, the Amalgamated Society of Engineers hold that the system of setting a special price for each job is not a bargain at all, but a price dictated by the employer and lowered by him at will. Another difficulty is that the time and labour necessary for each job cannot, with certainty, be estimated beforehand, and it is thus difficult to ensure that the workman will always receive the same earnings for the same effort.

Among the Carpenters, Plumbers, Stone-Masons, and Bricklayers piece-work seems to be equally inconsistent with the success of Collective Bargaining.

In some trades both piece-rates and time-rates are in operation. With the Compositors, though there are many varieties of work, these are more capable of precise enumeration than is the case in the Engineering trades. Piece-work lists are thus possible, and Collective Bargaining is not endangered by piece-work. On the other hand, the nature of the Compositors' work is such that it is little exposed to the risk of being "speeded up" by machinery or a too-zealous foreman, and so time-work is not objectionable. Straightforward setting up is often done by the piece, while corrections and special jobs are done by the time.

The Boilermakers and Iron Shipbuilders insist on piece-

work rates for the building of new ships, but when repairing is being done time-rates must be paid.

Some Unions have attempted to fix not only a minimum money wage, but also the maximum amount of work to be done for it. Restrictions of this kind are, however, rare, and are mostly due to a desire to prevent individual workmen from under-bidding their fellows, by undertaking to do more work in an hour for the same pay, thereby undermining the common rule of the trade. At one time it was not uncommon for employers to bribe particular workmen with beer or increased pay to work at exceptional speed in order to "pull on" the other workmen, and the "Ca' canny" device was probably a counter-stroke to attempts of this kind.

But these attempts to restrict output may easily degenerate into a fraud on the employer who, in agreeing on a time-wage, has contracted for labour at an all-round rate, assuming that the quick man will make up for the slower one. It can only, if ever, be justified where the employer has notice of the diminished energy being put forth. Considered from the point of view of individual and national character, it cannot be denied that systematic loitering is demoralising and its practice is utterly indefensible, and all responsible Trade Union officials denounce it.

The discussion of a Standard Rate would not be complete if it did not include a consideration of the question of Women's Labour. The old-time objection of men to the entrance of women into their trade, was due, in part, to a moral prejudice against a mingling of the sexes, and, in part, to the fear of a new class of competitors who might supply labour to the employers at a cheaper rate than the men. Woman has, however, established herself in the labour market, and this fact must now be taken account of by the Trade Unionist. Certain Trade Unions which have adapted themselves to the new state of things seem to have found that where men and women work in the same trade there need not be any competition between the sexes. The Lancashire Cotton

Weavers have a piece-work list of prices to which both men and women must conform. It is found that in the majority of cases the women engage themselves at light work for which the rates are lower, while the men work at the heavier tasks where higher rates prevail. But a woman with exceptional strength who is capable of doing the heavy work may do it, and where this is the case the Unions insist that she shall be paid at the higher rates as though she were a man.

Such a provision, besides being in accordance with the demands of simple justice, effectually checks any attempts on the part of employers to use the woman as a means for bringing down the man's rates. On the other hand, a weak man, unable to do the heavier work, may obtain employment at the women's looms at the lower rate. Similar arrangements obtain in the Hosiery trade.

The prevalence of such arrangements would seem to suggest that in the industrial world the equality of the sexes is not recognised. Women constitute a distinct class of workers, having different faculties, different needs, and different expectations. The Common Rules regarding wages, hours of labour, and other conditions, by which men maintain their own Standard of Life, are unsuited to women, and nothing but harm to the women can result from attempts to set up a uniform standard for both sexes. Where such a uniform standard prevails one of two things will happen. Either the woman will find herself entirely shut off from the possibility of employment, or she will retain her position only by super-womanly exertions which must prematurely wear out her strength and leave her in middle life of little use either to herself or to the community.

Undoubtedly there are callings in which men and women do work of exactly the same kind, and in which the women are as capable as, it may be more capable than, the men. In such trades and professions the Standard Rates must, in justice, be equal—where masculine capacity is inferior to feminine the masculine rate should be lower—but in all cases there must be absolute freedom for an exceptional member of either sex to accept work at the higher rates appropriate to ordinary members of the other sex.

Although the ideal of each Trade Union is a Standard Rate which shall prevail in the trade throughout the length and breadth of these islands, there is, in fact, a wide divergence with locality. To take a single example: Among the 783 branches of the Amalgamated Society of Carpenters there are as many as 20 different rates of payment, ranging from 5d. an hour in Truro to 10½d. an hour in London. Employers in out-of-the-way districts will often contend that on account of inferior machinery and heavy freight charges they are unable to pay so well as other employers who are more favourably situated, and that the workmen should be content to accept lower rates. On general grounds such a contention appears to us to be unreasonable. The best interests of the community are, in the long run, served by each industry being carried on in those places and under those conditions which most favour a system of high productivity, coupled with economy. For an employer to rely on those drawbacks and inconveniences of his position which are avoidable as an argument for reducing wages seems to us no less than a demand that the industry in which he is concerned should be subsidised out of the bounty of his workmen. The powerful and highly organised Unions of Lancashire as a rule refuse to make allowances for imperfect and old-fashioned machinery, and even demand higher piece-rates for the men who work it. In so doing they are, apart from the protection afforded to their members, promoting the best interests of the trade as a whole by the stimulus which they thereby give to industrial improvements. As a result of such a policy business tends to be driven into those establishments which are most favourably situated, best equipped, and most ably managed, while the incompetent and old-fashioned employer is eliminated.

It must, of course, be admitted that this policy must not be pressed too closely or too far, for although the closing of small and badly managed establishments and the absorption of their business by the rest is *ultimately* advantageous to the industry and to the nation, the dislocation and disturbance of the lives of the workpeople is an *immediate* evil which cannot be ignored.

In fixing a Standard Rate of wages in any trade the only fact of which account can be taken (on grounds that are theoretically justifiable) to establish different rates in different localities is the difference in the cost of living. Such a difference, in practice, nowadays resolves itself very largely, if not entirely, into a difference of house-rent, and it is difficult to take exception to the practice of certain Trade Unions which, on this ground, fix the rate for London ten per cent higher than the provincial rate.

The maintenance of the Standard Rate involves other matters besides the arrangement of piece-work lists and hourly rates of wages. There are various ways in which it is possible for an employer, while ostensibly agreeing to a Standard Rate of wages, to diminish appreciably the workman's real earnings. Such devices as deductions for materials and in respect of spoilt work, charging of loom rents in the Weaving trade and frame rents in the Hosiery trade, the imposition of fines, and attempts to pay the workman in kind are often resorted to, and they are resented and resisted by Trade Unionists with the same jealousy as direct reductions of wages.

Of almost equal importance with the maintenance of the Standard Rate is the maintenance of a Normal Day. In the case of those who are paid by the day it is obvious that the number of hours to be worked in a day is as essential a part of the wage bargain as the amount of the day's wage, and even in the case of piece-workers long hours of labour are found to have a depressing effect on the wage-rate.

The first demands for a limitation of the hours of labour came from those trades which were entirely dependent on the use of machinery. In the trades where the use of expensive machinery and a high degree of industrial organisation prevail, definite hours of commencing and finishing work each day are an absolute necessity, but it is in precisely these trades that the strain on the operatives of persistent and regular effort is most intense. Thus at a very early period we find the Textile-workers and the Miners agitating for and obtaining a Normal Working Day

fixed by legal enactment. In the Building and Engineering trades a change in the same direction of improved organisation and increased dependence on machinery has, after a succession of serious strikes, led to a similar limitation of the working day.

In all trades there is a perpetual conflict between the desire of the workman for more leisure and his desire for greater earnings. The latter desire being the greater, it might be supposed that in the trades where piece-work prevails, an increase in the hours of labour would mean an increase in the amount earned; and the same result might reasonably be expected even in those trades where payment by time is the rule, if extra pay is given for extra hours worked. But Trade Unionists believe that irregular and unlimited hours affect injuriously both the Standard Rate and the amount earned per man. This conclusion is drawn from actual experience. Official statistics and the evidence given before Royal Commissions show that long and irregular hours almost invariably coincide with low rates of pay and small weekly earnings. The practical Trade Unionist works out the connection somewhat in this way: The workmen in a certain trade may look upon 30s. as a fair week's wage, and one which will enable them to enjoy those necessities and comforts to which they are, by training and tradition, accustomed. If the hours of labour are increased from 54 to 60 per week, the rate of wages remaining the same, they now earn 33s. 4d. per week. Presently the wages are reduced by 10 per cent; the men grumble, but as they can still make 30s. a week they prefer to give way rather than strike, though they would have struck at an attempt to reduce the original 30s. to 27s. After a time the weaker men are unable to keep up their former output for such long hours, and this is made an excuse for a further reduction.

The effect is the same where the men work by the piece. Piece-work rates, no less than time-work rates, are based on the customary Standard of Living which both employers and employed tacitly recognise. Where there is no limit to the number of hours that may be worked the exceptionally strong and able man may make earnings far above

those customary in his trade. The employer, anxious to secure the adoption of a lower piece-rate, points to the earnings of such men as showing how much can be earned in the trade. These exceptional men will probably prefer to accept a lower rate rather than lose everything in a long strike. Thus the hours which the exceptional man can work tend to become the hours of the whole trade, and the piece-work rates are lowered so as to yield for the longer working week no more than the customary livelihood. On these grounds Trade Unionists are driven to insist on a Normal Day, not so much on account of the necessity for leisure and rest as to prevent workmen being forced to supply an ever-increasing amount of energy in return for a minimum subsistence.

In addition to this evil of a lowering of the Standard Rate must be mentioned the injury to national health and character which results when large numbers of citizens are deprived of proper opportunities for rest and recreation. A moral reaction inevitably follows on an excessive physical or mental strain, maintained during prolonged periods, and in districts and trades in which overtime constantly prevails the workers are found to be unmistakably inferior, both in morality and intelligence, to their fellows in the better-regulated trades.

A further argument against overtime is supplied from the experience of two generations of Factory Inspectors. It is a common arrangement in the trades where a Normal Day has been fixed by legal enactment to permit the employer in times of emergency to work overtime. But though, at first sight, such an arrangement may seem reasonable, it is utterly condemned by practical results. The concessions made to the employer's requirements have been found to destroy the efficacy of the law, and in each new Factory Act we see a narrowing of them. The officials responsible for the carrying out of the Acts are convinced that no rule of an uncertain nature can be maintained, and that no limitation of hours of labour can be enforced unless the hours of work are definitely prescribed. Regulations which permit overtime make it impossible to maintain the Normal Day, by giving an unfair

advantage to unscrupulous employers and lessening the effectiveness of factory inspection.

Where hours of labour are not regulated by Statute it is usually a term of the bargain entered into between the employer and the Trade Union that extra rates shall be paid for overtime work. Experience, however, shows that the extra rates do not effectively protect the Normal Day. In some trades (especially the Engineering and Shipbuilding trades) the employers have systematically worked their men on overtime one or two hours a day for months at a stretch.

Moreover, the tendency to lower the ordinary rates is not long in manifesting itself, for the less scrupulous employers, in urging a reduction in rates, will point out to their men the possibility of compensating themselves for the reduction by working overtime.

But the most evil result of overtime is seen when trade begins to slacken. At such times employers, in order to lessen the standing charges for rent, interest on capital, etc., concentrate the work done into as short periods as possible by extensively resorting to overtime. With their rates of wages falling workmen are tempted to make up their earnings by complying with the employer's demand for increased hours of labour. Thus at those times when the demand for labour has a natural tendency to diminish, the resort to overtime will, by still further lessening the call for men, accentuate the evil of unemployment.

CHAPTER III

THE JUSTIFICATION OF TRADE UNIONISM

TRADE Unionism must be judged, not by its results in improving the position of a particular section of workmen, but by its results in permanently raising the efficiency of the nation as a whole. Each device and regulation of Trade Unions must be subjected to this test: Does it promote the selection of the most efficient

factors of production, whether capital, labour, or brains, or does it promote a lower type of organisation, lessening the capacity and degrading the character of the manual and mental workers? One device of Trade Unions formerly in great favour, the device of Restriction of Numbers, fails to satisfy this test. This device usually took the form of stringent apprenticeship regulations. Not only was the proportion of apprentices to journeymen in a trade subjected to definite limitations, but in many cases only the sons of journeymen and other favoured persons could be received as apprentices, while no one was recognised by the Union as a journeyman who had not served the full period of apprenticeship.

It is now seen that any limitation of the persons who may be employed in a trade must lower the efficiency of that trade, and for the following reasons: 1. The area of selection is narrowed. 2. The men already in the trade gradually deteriorate when the incentive of fear of loss of employment is removed, for it is this which, in a great measure, keeps them efficient and regular. 3. Any considerable growth in the number of skilled workmen is checked, and so expansion of industry becomes impossible; hence the enterprising employer is discouraged, while sleepy management and obsolete plant become common. 4. The price of labour is raised without any compensating increase in its efficiency.

The Trade Union device of a Common Rule is one which will stand the test. By the Common Rule is meant the enforcement of a minimum standard of labour conditions below which no employer may descend, though not the fixing of a maximum above which no employer may rise. It does not eliminate competition. It merely transfers the pressure of competition from price to quality; for if the employer must not pay less than a certain wage he will naturally select the best man. Competition amongst the men ceases to be an under-bidding of each other in respect of wages, and takes the form of attempts to outrival one another in skill, sobriety, regularity, responsibility, and initiative. Amongst the employers the Common Rule stimulates invention and improvement in organisation

and processes of manufacture; for when they can no longer increase their profits or encounter the rivalry of their fellows by cutting down wages, they are compelled to rely on such improvements.

But apart from these considerations, the successful attempt of the workman to secure for himself a Standard Rate of wages and a limitation of the hours of his labour has indirect results of great value. The more regular, more comfortable, and healthier mode of life which follows the establishment of a Standard Wage and Day ultimately brings about an increase in efficiency which more than compensates the employer for the concession which he has been called upon to make. The success of the agitation for better pay and a shorter working day has not, as was predicted, ruined industry, but has, on the contrary, contributed in no small degree to the progress of the last half-century.

It must, however, be admitted that the benefits resulting from the adoption of the Common Rule come slowly, and, for a time, may be masked by more direct consequences which are not beneficial. A rise of prices is one example of such. Moreover, it is not safe to assume that the cost of every improvement in the condition of the operatives is compensated for by a corresponding increase in their efficiency. As in all other classes of investment, the Law of Diminishing Returns operates, and in each trade a point must finally be reached at which any additional expenditure in respect of wages and the improvement of labour conditions will yield a less than corresponding increase of efficiency.

There is, however, little fear that we have, in any of our trades, reached this point, though, of course, the economic and industrial benefits likely to follow from any raising of the Standard of Life will, for a given cost, be greater in those trades where the present standard is low than in those with a comparatively high standard.

In this connection the effect of Trade Unionism on Industrial Parasitism should not be lost sight of. Amongst the parasitic trades must be included those trades in which women are largely employed at wages insufficient for their

support, and who are therefore partly dependent on their parents or husbands.

Trades which employ large numbers of unskilled boys and girls who live with their parents, and work for a sum insufficient to cover the cost of their support, are also within this class. Even if the wages are sufficient to pay for food, clothing, and lodging, such trades are parasitic on the community if the boys and girls are not trained for a trade which they can follow on reaching maturity. An industry which cannot both maintain its existing operatives in health and efficiency and also contribute its due share of recruits to the industrial army, is being carried on at the expense of the community. Then there are the trades in which the wages of adult males are too low to maintain physical efficiency, or in which the conditions of work are dangerous or insanitary. Such trades are using up the vigour, intelligence, and character of the operatives without renewing them. They take out of the workers more than the wages they pay can restore. The difference is made up by the community as a whole in the form of poor rates, charitable contributions, charges for the upkeep of lunatic asylums, hospitals, prisons, and in an unnecessarily high death-rate.

There is going on in this country a competition between trade and trade as keen as that which is waged between country and country. In this competition those trades in which a Common Rule has been established are expanding steadily, reducing prices and improving the quality of the goods or services supplied, while the parasitic trades are constantly growing up and disappearing, keeping their footing for a time by reason of the undue cheapness of their products. The regulated trades, however, bring certain advantages to the unregulated ones. They supply them with ready-made appliances and tested inventions, and they improve the national stock of wage-earners from which both regulated and unregulated trades draw their recruits. But though these causes prolong the lives of the parasitic trades, there can be little doubt that as the use of the Common Rule grows, so will parasitism diminish.

No stronger proof of the benefit which follows from the

enforcement of a Common Rule could be found than that supplied by the enormous expansion during the last sixty years of the Textile, Shipbuilding, Machine-making, and Coal-miners' trades—the trades in which, either as a result of Collective Bargaining or Legal Enactment, the Common Rule is most firmly established.

Agriculture, on the other hand, furnishes a striking example of the decline of a trade which, though not parasitic, is entirely unregulated. The agricultural labourer is hired for practically a bare subsistence. There is no limit to his hours of work, and little or no provision exists for his comfort and convenience. This Low Standard of Life means a low standard of work. The employers have troubled themselves less than any other class of employers about inventions and improved processes, and their only resource when times are bad is to look to the landlords for a remission of rent.

CHAPTER IV

THE METHODS OF TRADE UNIONS

AT the present day, Trade Unions seek to achieve their purpose rather by Collective Bargaining than by Legal Enactment. We have seen that when the conditions of employment are left to free competition, they are settled by individual bargaining between parties of very unequal economic strength, and the settlement arrived at tends to the worst possible conditions of labour for the mass of the workers, who are in constant danger of being forced down to the bare subsistence level. From this assumption springs the notion of the necessity of a Common Rule, that is to say, an understanding amongst a number of wage-earners as to the conditions on which they will accept work from an employer or employers, and an undertaking on the part of each one not to sell his services on terms less favourable than those agreed upon.

Collective Bargaining, as conducted by Trade Unions,

is nothing more than a higgling of the market, such as the ordinary business man constantly engages in, and its success is therefore dependent upon the strength of the strategic position occupied by those who higgle on behalf of the workmen. It has therefore always been a principal aim of the Trade Union leaders to secure for themselves this favourable strategic position by availing themselves of the operation of the Law of Supply and Demand.

The Doctrine of Supply and Demand, as applied to labour, may be thus stated: Labour is a mere commodity, and the workers are in the position of men selling this commodity in the market; they are entitled only to what they can get by bargaining. The employers, seeking to buy labour as cheaply as possible, find it to their interest that there should be an unlimited supply of labour in the market. The workmen, on the other hand, find it to their interest that the supply of labour should be limited. This is the reason which underlies the old Trade Union policy of restricting the number of members in a trade by rigid apprenticeship regulations and other devices. But the policy of restricting numbers is now justly discredited, and is in reality pursued by very few of the Unions. Their hostility to boy labour has, however, sound reasons behind it, and it may safely be contended that the highest welfare, not merely of the working classes, but of the whole community, cannot be secured without placing severe limitations on the employment of boys. This question is, however, dealt with in Chapters III and VII.

Closely connected with the policy of restriction of numbers, if not indeed a part of it, is the systematic discouragement of overtime by the leaders of the Trade Union Movement. The abolition of overtime is usually advocated, along with the shortening of hours of labour, as a means of absorbing much of that surplus labour which is represented by the unemployed. It is rightly felt that, inasmuch as the unemployed constitute that part of the labour supply which is in excess of the demand, their existence is a continual menace to the success of Trade Unions in their Collective Bargaining with employers, and that any diminution in the number of the unemployed

must, to that extent, increase the bargaining power of the Unions.

Perhaps the most obvious conclusion to which a consideration of the Law of Supply and Demand leads the Trade Unionist is the wisdom of demanding a rise of wages when times are good. This has led to the adoption of sliding-scale agreements under which employers and workmen agree to a rate of wages which varies with the price of the article in the production of which they are engaged. Sliding-scale agreements have not, however, achieved the success which was anticipated, though they still prevail in the South Wales coal trade.

A belief in the fact that wages tend to vary with the price of the product of labour, together with the knowledge that the price of that product rises as the quantity of it diminishes, has, on more than one occasion, led to deliberate attempts on the part of Trade Unions to restrict output. This restriction of output may take the form of a prohibition on each worker from exceeding a certain daily output, or it may take the form of an occasional simultaneous cessation from work with a view to reducing accumulated stocks—as in the case of the "Stop-Day" arrangements on the South Wales coal-field.

But a keener and a deeper perception of the working of the Law of Supply and Demand has revealed the truth that attempts of this kind cannot, in the long run, succeed, and must recoil, with disastrous result, on the heads of the workers themselves. Wage-earners may temporarily stop production by refusing to work, but they cannot systematically and constantly limit it. Even if they limit the amount of each man's output, the Law of Supply and Demand soon operates to defeat their purpose. A temporary rise of prices may follow, but this is in itself an increased stimulus to production, and so, more factories are built, more machinery is introduced, more men are set to work, and the artificially created scarcity is followed inevitably by another glutting of the market.

Strategic position is not the only consideration where Collective Bargaining is concerned. The intrinsic strength and solidarity of the Trade Union itself is equally important. Hence we find in modern times a marked tendency on the part of Trade Unions to abandon the ancient policy of exclusion. It is recognised that to refuse members of a trade admission to an Union because their entrance into the trade has not been by the orthodox channel of formal apprenticeship is to leave on the labour market a body of men who may, by their readiness to undersell, prove themselves formidable competitors to the Trade Unionists, and neutralise the efforts of the latter to win for themselves a decent standard of comfort. Accordingly, we find such Unions as the Amalgamated Society of Engineers readily admitting to membership any skilled worker in the trade, regardless of the manner in which his skill has been acquired.

The tendency of the members of a trade to form themselves into a vast national society with branches in all parts, and embracing the whole body of the workers in the trade throughout the country, has resulted in a marked increase in the power of Trade Unions to obtain favourable terms in their bargains with employers, and this power is obviously augmented by federations amongst the Unions serving different trades.

Probably the greatest source of internal strength in a Trade Union is the practice of granting out-of-work donation to unemployed members. More attention is given to this than to any of the other forms of benefit, for if the Standard Rate is to be preserved intact it is vitally necessary to prevent out-of-work men being compelled to accept work on any terms which may be offered. So great is the importance of this donation that, when the funds of an Union are running low, claimants for out-of-work pay are often given a preference over even the sick and the superannuated members. The right of a workman to benefit of this kind is far more potent than savings in a bank. Where a stand is being made against a reduction of wages or for a rise, the individual workman who depends on his own savings alone is weakened by the fact that his fellow-workman, who has no savings, may soon be compelled to accept the employer's terms as the only alternative to starvation. The right to out-of-work benefit gives to

every member of the Union the same power of resistance.

It may even be said that sick-pay, tool insurance, funeral grants, accident benefit, and superannuation allowances are all indirect means of preventing the employing class from taking advantage of the workmen's necessities to lower the Standard Rate. The out-of-work and other provident benefits of Trade Unions thus constitute, in effect, a system of Mutual Insurance under which each member, by payment of a small subscription, is insured against the necessity of being compelled to sell his labour on unfavourable terms.

It has always been a fundamental part of Trade Union policy that there shall be no separation of the funds available for strike, lock-out, and other purposes from those available for purely Friendly Society purposes. It is felt that the evils which will follow from a "lowering of the dyke" are so serious that the Union must be prepared, in case of need, to use the whole of its funds in maintaining the Standard Rate. The Law also recognises this necessity in Trade Union management. Two Chief Registrars of Friendly Societies have stated their opinion that it is not a malversation of Friendly Society funds to use them for strike purposes, while Lord Macnaghten, in the recent case of Osborne *v.* the Amalgamated Society of Railway Servants, declared that the benevolent purposes of Trade Unions are secondary and subordinate to the trade purposes.

The undoubted hostility of Trade Unionists to benefit societies conducted by employers is thus accounted for. The contributions made by workmen to such societies are usually practically compulsory, and, owing to the poverty of the ordinary working-class household, the difficulty of getting a second subscription for a Trade Union is almost insuperable. An employer's benefit scheme would therefore seem to be incompatible with the existence of any effective union amongst the employees who contribute to it, with the result that, so far as they are concerned, Collective Bargaining is an impossibility. Profit-sharing schemes are likewise condemned by Trade Unionists because of

their tendency to establish a diversity of interest between small sections of workmen employed in the places where these schemes prevail and the great body of Trade Unionists. Many of the promoters of these schemes frankly urge their adoption on the ground that where workmen share in the profits of the employers industrial disputes are less likely to occur. To the Trade Unionist this means that such workmen can, with difficulty, be persuaded to press for an advance in their wages, even when the circumstances justify it, or to resist an uncalled-for reduction. Further, it may be doubted whether the gain to the profit-sharing employee is a real one. The share of the profits which falls to the workman rarely amounts to more than an addition of 5 per cent to his wages, whereas the difference between wages in districts where Unionism is strong and districts where it is weak is often as much as 20 per cent.

It is not necessary to affect a disbelief in the benevolence and sympathy of employers towards those whom they employ. Really benevolent and sympathetic employers do, of course, exist; but it is submitted that the benevolence which takes the form of employers' benefit societies and profit-sharing schemes is a short-sighted and misplaced benevolence, and the employer who is sincerely desirous of raising the condition of the wage-earners will be well advised to pursue methods less dangerous to the welfare of the working class as a whole.

The natural desire of Trade Unionists to make their Union as strong as possible leads them to seek, by various means, to bring within the ranks of the Union the whole body of workmen in the trade. In the case of the larger and more powerful Unions, such as the Coal Miners' Unions and others, these efforts sometimes amount to attempts to enforce a compulsory Trade Unionism. The compulsion usually takes the form of a refusal by Unionists to work with non-Unionists, resulting in the discharge of the latter by their employers. To many thinkers the idea of compulsory Trade Unionism is utterly repugnant as an unwarrantable interference with individual liberty. The writer frankly admits that if the question is to be settled

by the application of the Doctrine of Individual Liberty, as popularly understood, compulsory Trade Unionism is condemned; but there is a principle even more fundamental than that of the preservation of individual liberty—the necessity of seeking the highest good of the nation as a whole, and if the question of compulsory Trade Unionism is subjected to the test of the latter principle it is found to stand the test. In every civilised nation political progress is marked by a series of restrictions imposed on individual liberty for the benefit of the nation as a whole. Each individual in the nation is called upon to surrender a portion of his personal liberty, but, as a result of such surrender, finds himself in the enjoyment of wider possibilities of action or of other material benefits, which more than compensate him for the loss sustained. In any proposal to take away from an individual some part of the liberty which he has previously enjoyed the test of rightfulness must be: Are the advantages which will accrue to the community as a whole, and to the individual, as an individual, substantially greater than the advantages which he is asked to forgo?

No one in these days will deny the desirability, from a national point of view, of a high Standard of Life and comfort for the great bulk of the citizens of this nation. It is clear that in an age when such a standard can only be won and maintained by successful bargaining in a competitive market, the great mass of our fellow-citizens can only achieve a healthy and comfortable livelihood through the instrumentality of Collective Bargaining. The success of Collective Bargaining is therefore a matter of supreme importance, not merely to the Trade Unionist, but also to the non-Unionist, and to the nation as a whole. Without Collective Bargaining the average wage of the adult manual worker (the non-Unionist as well as the Unionist), which now stands at 24s. per week, might be forced down to 23s., to 22s., to £1, and even below that. On the other hand, as Collective Bargaining becomes more effective this average will be raised to 26s., to 30s.—it may even be to 40s. In this improvement the non-Unionist will participate no less than the Unionist. The question of the rightfulness

of compulsory Trade Unionism is therefore, fundamentally, a very simple one—Shall the right of the non-Unionist to do as he likes—to bring down his own wages *and the wages of hundreds of his fellows* to the bare subsistence level, outweigh the advantage to the community as a whole which will follow from a progressive movement of the workers' Standard of Life?

It is a fact well worthy of notice that the right of workmen to procure the dismissal of a fellow-workman by refusing to work with him has long been recognised in law. Chief Justice Cockburn said in 1861, "Every workman so long as he is not bound by any contract is entitled, when in the service of an employer, to the free and unfettered exercise of his own discretion whether he will remain in that service in conjunction with any other workmen with whom he may not choose to serve. . . . If several workmen consider others obnoxious personally or on account of character or conduct they have a perfect right to the exercise of their discretion, and to put the alternative to the employer of either retaining their services, by discharging the obnoxious persons, or of retaining the latter and thus losing the others' services."*

In the celebrated Mogul case it was settled that an agreement among merchants to procure the exclusion of a rival from the market, by persuading traders not to deal with him, was perfectly legal as being nothing more than an ordinary act of trade competition, and Lord Bramwell pointed out that this decision was equally applicable to cases of competition in labour.

It will, of course, be understood that in this discussion of compulsory Trade Unionism peaceful compulsion only is defended. Neither the English Law nor political nor industrial necessities can be held to justify intimidation and acts of violence.

Public opinion will rightly condemn the man who avails himself of his strict legal rights to commit a mean and ungenerous act, but when the principle of Collective Bargaining is at stake, and with it the decent Standard of Life

* See Walsby *v.* Anley, 30 L.J.M.C., 121.

of the great majority of Englishmen and Englishwomen, Trade Unionists may justifiably exercise their undoubted legal rights in order to prevent their position being weakened and undermined by disloyal members of their class. Trade Unionism must be regarded as a state within a state, and just as in the State Political every adult man is compelled to assume the burden and responsibility of citizenship, so in the State Industrial every adult worker may rightly be subjected to influences which irresistibly urge him to associate himself with the organised body of his fellow-workers.

CHAPTER V

ARBITRATION AND THE MINIMUM WAGE

THE difficulties attendant upon Collective Bargaining, and the deadlocks which constantly occur through the breakdown of negotiations between parties equally strong and equally determined not to give way on some point which, to the outsider, seems unimportant, have caused thoughtful men to look with increasing favour upon Arbitration as a means of settling industrial disputes. The business man, mindful of the advantages which a resort to Arbitration in commercial disputes has over the expensive and tedious process of a lawsuit, sees, or thinks he sees, in Arbitration a sure means of avoiding industrial disturbances. But these advocates of Arbitration often fail to see that there is a wide difference between a commercial arbitration and an arbitration between employers and workmen. Between commercial men arbitration is largely resorted to in cases where it is desired to arrive at a friendly understanding as to the interpretation of some ambiguous term in an agreement already concluded, or to make good some omission in such an agreement. But where the terms of a new agreement are being settled, no business man would consent to submit the matter to an arbitrator.

Organisers of industry, and, to a less extent, Trade

Union leaders, show the same disinclination to allow outside interference where the terms of a new agreement are being considered. Moreover, arbitrators themselves in such cases recognise the almost impossibility of the task they are called upon to perform, owing to the fact that there is usually no basis common to both parties on which they can make their award. The employers may say that wages should vary with prices; the workmen may refuse to acknowledge this, and may say that a living wage must be the first charge on industry; while to the arbitrator no accepted principle either of Law or of Political Economy is available for his guidance,

It is, however, submitted that even in such cases the arbitrator may have a real and a useful function. Where the magnitude of the dispute is such as to make it worth the while of some eminent public man to intervene as arbitrator, he may, without assuming the responsibility of laying down the terms of a bargain which both parties will be called upon to accept, prepare the way for a mutual agreement between the parties. His high position and the esteem in which he is held render it possible for both parties to the dispute to meet in his presence on equal terms without any sacrifice either of dignity or of independence. Both employers and workmen are encouraged to put their case frankly before him. Asperities are smoothed away and bitterness of feeling is sweetened by his influence.

The arguments of each party, after being stated to him, are by him again set forth in their most favourable light and in such a manner as to appeal to the mild reasonableness of the other party. Finally, having brought both disputants to the point at which an agreement honourable and profitable to both of them is clearly in sight, he urges upon them and secures from them its common acceptance. Such a process is not so much one of Arbitration as one of Conciliation, and is, in effect, nothing more than a facilitation of the process of Collective Bargaining.

Experience seems to prove that Arbitration, as a means of interpreting and applying the terms of an already accepted bargain, is attended by practical difficulties

which largely destroy its usefulness. The disputes which arise in such cases are, as a general rule, so small in their scope and of so little pecuniary importance as to make the appeal to an outside arbitrator of eminence and skill impracticable, while the matters to be considered are often so intricate that the intervention of an unskilled arbitrator would be worse than useless. Where the wealth of a Trade Union allows it, disputes of this kind can be much more satisfactorily settled by negotiations carried on between two experts in the trade, one representing the employers and one the men. The practice in the Lancashire Cotton Trade may be referred to as an example of this kind of negotiation.

The calculations necessary to determine the piece-work wages of the weavers, spinners, and other operatives, are so complicated as to be beyond both the arithmetical skill and the patience of the ordinary employer or wage-earner. Employers and workpeople have, therefore, long recognised the necessity of maintaining salaried professional men who are experts in these matters, and who devote their whole time to the service, respectively, of the employers' association and the Trade Union. Thus, while the agreements fixing piece-work rates, hours of labour, etc., are arrived at by bargaining between the employers' associations and the Trade Unions, the interpretation and application of the lists is carried out by official experts, who are constantly meeting as a matter of ordinary business for the purpose of making the necessary calculations and negotiations.

Compulsory Arbitration lies outside the domain of Arbitration proper, being in effect an indirect way of fixing by Legal Enactment the wages and the conditions under which industry shall be carried on. It presupposes the recognition by the community of the necessity of a fixed minimum Standard of Life, the maintenance of which shall be the first charge on industry—in other words, Compulsory Arbitration is only possible where both parties to the arbitration are agreed on the principle of a Minimum Wage, and come together before the arbitrator to decide what that Minimum shall be.

The practical difficulties in the way of arriving at such a decision are not in reality so great as is usually supposed. If it be granted that the well-being of the nation demands that each worker shall be sufficiently fed, and clothed, and housed, and enjoy a sufficient leisure, the task of deciding what constitutes such a sufficiency is one which may be left in each district and industry to physiological experts. Such a decision having been made, and the facts being before a Board of Arbitration composed of representatives of the employers and the workmen in equal numbers, with a neutral chairman, it is for that board to translate the material requirements of the workers into terms of pounds, shillings, and pence, thereby arriving at a Minimum Wage for the trade in the district.

The opponents of the Doctrine of a Minimum Wage commonly urge as an objection against it that any serious attempt to force on employers the payment of a statutory rate of wages would result in the complete dislocation of industry. The same argument was made use of in the early decades of the nineteenth century, when, by the passing of the first Factory and Mines Acts, a minimum standard of sanitation, safety, and leisure for the workers was enforced. But the experience of nearly a century has shown that the employer's methods of " conducting his own business " may be subjected to interferences of the widest scope and the minutest detail without threatening its successful continuance.

It is clear that when Government prohibits an employer from paying any employee in his service less than a certain minimum wage, the interference in the internal organisation of the factory, workshop, or mine which is thereby involved is negligible as compared with the regulation and supervision which are necessary to the enforcement of the requirements of the Factories and Workshops Act, the Mines Regulation Acts, and other similar Acts.

Nor would the enforcement of a minimum wage necessitate the resort to draconic measures of compulsion against the employer. Where an owner of a factory neglected to comply with the recommendation of the Board of Arbitra-

tion for his district, there would be no seizure of his premises by the police or the military, nor would a Government official be put in charge for the purpose of paying to the workmen the statutory wage. There would be nothing more exciting and nothing more oppressive than a visit from the factory inspector, followed by proceedings in the local police court and the imposition of a fine. Such a course of procedure is sufficient to ensure the observance of the present requirements of the Factory Acts. There is no reason to suppose that it would be less effective in securing obedience to an additional requirement.

Further, there can be little doubt that Compulsory Arbitration conducted on the basis of an accepted minimum Standard of Life, and with a view to the fixing of a Minimum Wage, would be an effectual remedy for strikes and lock-outs. A strike or a lock-out has rarely, if ever, been indulged in as a protest against a new Factory Act, or a new Truck Act, or against an Act fixing the hours of labour. Disagreements as to wages are by far the most fruitful source of industrial disturbance. Let a minimum standard of comfort be assured to the workman and, at the least, it may reasonably be hoped that strikes, for the purpose of resisting reductions of wages, will become a thing of the past; and it may be that the Trade Unions' power of Collective Bargaining will be so strengthened that all reasonable demands for advances in wages will be granted without resort to the hazards of industrial warfare.

CHAPTER VI

SOME MISCONCEPTIONS REGARDING TRADE UNIONS CORRECTED

A COMPLETE account of Trade Unionism will correct certain misconceptions regarding the aims of Trade Unionists, and will attempt to answer certain criticisms which have been levelled at the movement. Many of the opponents of Trade Unions still cherish the notion that Trade Unionists are opposed to the use of machinery.

Though such a charge might have been true sixty years ago, Trade Unions have long ago abandoned their hostility to machinery. The report of the Royal Commission on Labour in 1896 makes no mention whatever of any such hostility, and the rules and regulations of hundreds of Trade Unions have been analysed by Mr. and Mrs. Webb without the appearance of any evidence of antagonism to invention or improvement of any kind.

Most of the modern disputes and strikes which are caused by the introduction of machinery are disputes as to the conditions under which the introduction shall take place. The introduction of new machinery generally means a quickening of production. If the workers are paid by the piece the new machinery enables them to turn out an increased quantity of work in a given time, and the employers, without seeking to lower the actual amount of wages paid, may propose a reduction of piece-rates. The workers, on the other hand, will perhaps contend that though they can, by the aid of the new machinery, increase their real output, the intensity of the strain which their work involves is also increased. Similarly, if the workers are paid for time, the increased strain seems to them a reason for a rise of wages. It is on such points as these that the employers and the Trade Unions join issue, the advisability of using the new machinery scarcely ever being questioned.

It must now be conceded that in the interests of the operatives the introduction of new machinery, the reorganisation of factories, and changes in processes all require to be carefully watched by Trade Unions, and that to deny to Trade Unions the right to be consulted in such matters is to deny the principle of Collective Bargaining. These matters involve, of necessity, changes in the conditions under which the men will work, and these changes are obviously matters for negotiation just as much as any other changes which are likely to affect the rate at which the workmen shall be remunerated.

Unfortunately, both employers and Trade Unions often seem indisposed to face in a reasonable spirit the questions thus raised.

Cases are not uncommon where employers demand a substantial reduction of piece-rates, or even a change from piece-rates to time-rates, not because profits are threatened, but because the maintenance of the old rate under the new conditions will give to the workman a wage which, to the master, seems absurdly high for a workman. On the other hand, for the employee to claim the old rates for work done under improved conditions or with improved machinery is, in effect, to claim an increase of the Standard Rate. Such a claim may, of course, be justified, but it should not be disguised in the form of a demand for the mere maintenance of the old rate. In disputes of this class workmen have occasionally gone so far as to assert that wages should be the price of goods, and that where any improvement is effected in machinery or manufacturing processes, the whole benefit of that improvement should be absorbed in wages. Without either defending or attacking such a claim, it may be said that this assumption forms no part of the Trade Union theory as at present accepted, and any attempts of Trade Unionists to secure its acceptance by the community at large is not at present likely to be successful.

The Compositors, on the introduction of the Linotype machine, set an example which might well be followed by all Trade Unions in the settlement of such disputes. They disclaimed any desire to prevent the introduction of the new machines, but sought to secure employment for their members on those machines on such terms as would protect the Standard Rates, claiming for the workmen a share, but not the whole, of the advantages which resulted from the invention.

The Cotton Spinners and Weavers for the last fifty years have acted on the same principle. Where any new machinery is adopted, or any change in the internal economy of the factory is made, the new conditions are arranged by agreement between the official experts representing the Trade Unions and the masters' associations respectively. Both sides admit as the basis of all negotiations the necessity for maintaining the Standard Wage. The Trade Unions meet the employers so far as to agree

to an automatic decrease of piece-rates with every rise in the productivity of the machinery, while the employers concede to the operatives the full benefit of any new dexterity which they may gain in the new practices.

The Boiler-makers and Iron-shipbuilders in their agreements with the employers consent to revision of rates on account of labour-saving appliances, improved arrangements in the yards, and in respect of types of vessels on which the work is easier. Such revisions are made from time to time, as occasion arises, by a committee of employers and employees constituted for the purpose.

The following would therefore seem to be the wisest policy for Trade Unions to pursue in relation to industrial improvements :—

In all negotiations concerning the introduction of improved machinery or the establishment of improved conditions of production, the Trade Union should bargain on the assumption that the improvement cannot be allowed to put the operative in any worse position than he was in before, either as regards rates of pay, hours of labour, physical or mental exertion, or discomfort or disagreeableness of work. Further, the workman shall, by an increase in the Standard Rate, share some of the advantages which follow on the improvement.

Such a policy may be pursued consistently with benefit not merely to the operatives in the trades concerned but to the community as a whole, for it becomes a matter of interest to Trade Unions to insist on the introduction of improved machinery and improvements in manufacturing processes.

Thus in Lancashire the Trade Unions feel they have a grievance when one employer lags behind the rest. A backward or sluggish employer may be tolerated by the neighbouring employers as one rival the less, but to the operatives he is a danger, and Trade Unions by refusing to make allowances for obsolete and imperfect machinery and processes, or even by demanding higher piece-rates where they exist, may do much to stimulate industrial progress.

The assumption that the wages and other conditions of employment hitherto enjoyed by any section of workmen ought not to undergo any change for the worse, gave rise in the early days of Trade Unions to the Doctrine of Vested Interest. The idea of a vested interest is common to all the professions, and probably originates in a perception of the social inexpediency of allowing the reasonable expectations of worthy and industrious members of society to be disappointed. Some of the early Trade Unions justified their existence by an appeal to this doctrine, comparing the members of their trade with the members of the learned professions. The doctrine was thus responsible for attempts to limit the number of workers in many of the trades with a view to minimising the evils of competition. It was responsible for the practice of lengthened apprenticeships, and it inspired the long struggle against the introduction of machinery.

It must, however, be admitted that to act on the doctrine is often to bring upon society even worse evils than disappointment of expectation. The Industrial Revolution destroyed the vested interest of craftsmen in their trade, for with the rapid succession of new inventions and processes the vested right in a trade could only have been maintained by prohibiting machinery and other innovations. New classes of industrial workers were growing up who had no vested interest in any trade and were therefore hostile to the idea, while the interests and influence of the consumer were in direct opposition to the principle. Considered from the point of view of the common good the doctrine is indefensible as being inconsistent with the most rapid adaptation of society to new needs in an age of progress, and the majority of Trade Unionists now acknowledge that the principle has no longer any validity.

The claim to a vested interest in a trade is still, however, sometimes asserted in connection with what are known as Demarcation Disputes, which arise in consequence of the overlapping of trades. The main cause of overlapping is probably the invention of a new process which, being akin to two or more trades but outside them both, results in

the members of each of the affected trades claiming the sole right to perform the new process to the exclusion of the others. The introduction by a single firm of employers into their own establishment of a new system of division of labour, or the migration of employers or employees from one town to another where the lines of demarcation between the trades are different, may lead to similar results, while the open aggression of a strongly organised trade upon one less strong is not altogether unknown.

The Iron-shipbuilding trade has probably seen more disputes of this kind than any other trade in the country. Modern shipbuilding differs so greatly from shipbuilding as practised half a century ago, that the rules and customs evolved in the early days of Trade Unionism are now often utterly inapplicable to the existing conditions. The building and fitting up of a modern ship involve an almost infinite variety of operations, e.g., shipbuilding, engineering, plumbing, carpentry, cabinet-making, upholstering, painting, blacksmith's work, etc.

A notable dispute took place in 1890 between the Joiners and Shipwrights on the Tyne. The matter was submitted to the arbitration of Mr. T. Burt, who dealt in his award with 168 different items of work, 96 of which he assigned to the Joiners and 72 to the Shipwrights. This award was disputed by the Joiners, and it was only after a fourteen weeks' strike that they agreed to accept the decision of a committee composed of representatives from various trade societies on the Tyne who affirmed the Burt award. During the years between 1890 and 1893 there was a period of thirty-five weeks during which one or other of the four most important sections of the Tyne trade were out of work on account of disputes arising out of the demarcation of the respective trades.

A serious feature of such disputes is not only that they injure the employers and the industry generally, but that they weaken Trade Unionism and render " black-legging " almost inevitable. The employers say that the obvious way out of the difficulty is to allow them perfect freedom in the selection of the men most suited for the work, but to the Trade Unions this claim is clearly inadmissible,

for Collective Bargaining is impossible unless the membership of each Trade Union is precisely defined so that each workman knows the collective agreement by which he is bound. Further, under such an arrangement the Standard Rate could not long be maintained, inasmuch as the employers would inevitably be tempted to hand over, little by little, the work of the highly-paid men of one trade to the men of another trade who would do it more cheaply.

Any solution which is to be permanent must protect the employer from the annoyance of unnecessary stoppages caused by overlapping, and, at the same time, guarantee the Trade Unions against any encroachment on the Standard Rate and against any undermining of their organisation. It is submitted that some such plan as the following satisfies all these conditions. The Trade Unions in those trades which are allied to each other by the nature of the operations they perform, or by reason of the similarity or identity of the materials on which they work, should form themselves into federations for the purpose of dealing with matters of demarcation. Within the circle enclosing the members of these allied trades the employers should be free to employ in any process, in respect of which a dispute exists, whatever workmen they think most suited to their purpose, the federated unions contenting themselves with securing by Collective Bargaining with the employers a Standard Rate of payment for the work. Thus within such a federation each Trade Union would, under ordinary circumstances, bargain independently of the others for a Standard Rate in its own trade, but when a dispute arose as to the trade to which a certain class of work should be assigned, the Collective Bargaining for the rate of pay for that class of work would pass into the hands of the federation, which would enter into negotiations with perhaps a corresponding federation of employers. The rate of pay for the work having been fixed, and the employers having chosen their men for the work, the federation would, if necessary, decide which one of the allied unions might most suitably admit to membership the new class of workers.

The charge against Trade Unions that they deliberately

restrict output can, except in a few isolated instances, be no longer sustained. This subject is, however, fully considered in Chapter IV. In Chapter II it has been shown that the majority of organised workmen favour piece-work rather than time-work, the preference, however, being based on the consideration that in the trades concerned, piece-work rates are the more effective means of protecting the Standard Wage. In the Engineering and certain other trades piece-work rates are less satisfactory as a means of enforcing the Common Rule than time-rates, and we accordingly find such trades opposed to piece-work.

In the old days, workmen's organisations were frequently countenanced by the tradesmen of the towns because of their insistence upon what they deemed to be the advisability of " keeping work in the town." Such a policy, when seen from the wide point of view of the political economist, cannot, of course, be defended. It may, however, be useful to examine the motives which have prompted Trade Union action in these matters. Trade Unions were originally purely local clubs, each organisation being distinct from other organisations in the same trade. A spirit of jealousy and exclusiveness pervaded them all, each Union trying to keep the trade of its own town within the town, and even resenting the entrance into the town of workmen of their own trade coming from other towns. The struggles between these local Unions ceased as the Unions themselves were welded into great national organisations embracing the whole of the trade with which they were connected. But the policy of " keeping trade within the town " was in many cases still clung to, partly, no doubt, as a tradition, but to a large extent on another ground, namely, a desire to prevent employers in the town evading Trade Union regulations by getting work done in districts where either there was no trade organisation, or a low Standard Wage obtained. Thus some branches of the Friendly Society of Operative Stone-Masons still prohibit their members from working on stone which has been imported into their town in a worked state from an outside district. Such

imported stone is usually worked up in the quarry districts where the Stone-Masons are poorly organised, and where the wages and conditions are bad. It is therefore clear that if the organised Stone-Masons took no steps to prevent employers resorting to evasions of this kind, their organisation would soon become utterly futile. Moreover, in large towns the various jobs in the building trade may be so dovetailed into each other as to ensure regularity of work, while the quarry owners who only receive spasmodic orders for the worked stone, often rely largely on the services of Stone-Masons who are "on tramp." To encourage work of this kind in preference to regular town work cannot fail to increase the number of these nomadic workmen, and, in the long run, to lower seriously the character of the members of the trade.

The Trade Union policy of "keeping work in the town" is not, where still followed, mere local "Protectionism," but is based on the desire to protect and advance the interests of the trade as a whole throughout the country. As showing the wider outlook now taken by the more enlightened Trade Unions, we may mention the variation of the policy followed by the London Society of Compositors and the Typographical Association. These societies, at election times, now urge candidates to place their printing orders not necessarily within the constituency, but in those districts where the work is done under Trade Union conditions. Many other similar instances could be furnished of a Trade Union taking steps which affect unfavourably the workers in a certain area in order to secure benefits for the trade as a whole.

CHAPTER VII

THE APPRENTICESHIP SYSTEM

THE references which have been made to such questions as the Vested Interest of the skilled workman in his trade and the now almost obsolete Trade Union policy of Restricting the Numbers of workmen in a trade, render

it advisable to notice briefly the apprenticeship system. Modern apprenticeship, so far as it exists, appears in the two following forms: 1. The formal indentured apprenticeship, designed to secure an efficient technical training, and to give to the trained craftsman the protection of a monopoly. 2. The custom of "patrimony," under which journeymen in certain trades are allowed to bring their own sons into the trade. This is really no more than a privileged exemption from the operation of the strict apprenticeship system.

The best example of apprenticeship, in the strict sense, is seen in the United Society of Boilermakers and Shipbuilders. This society has entered into a formal treaty with most of the Master Shipbuilders, under which the employer binds himself to give instruction to the apprentice, who must enter into formal indentures before he is eighteen, and serve five years at a low wage. By this treaty, the ratio of apprentices to journeymen must be as two is to seven.

The custom of "patrimony" still exists in many of the branches of the Sheffield Cutlery Trade where it is, in many cases, the only avenue to employment. Among the Stone-Masons the "patrimony" and the apprenticeship systems exist side by side, but the trade seems to be largely recruited by the former means. As the Boilermakers, the Sheffield Cutlers, and the Stone-Masons comprise the majority of trades in which apprenticeship regulations are systematically enforced, it is improbable that the total number of operatives in the strictly "closed trades" exceeds 90,000.

There are several trades which are theoretically closed but in practice open, the regulations regarding entrance not being capable of enforcement. The Compositors in many of the large towns insist on the boys being bound for seven years, and the number of apprentices allowed in each firm is strictly limited. But these regulations are quite insufficient to prevent the admission of "illegal men" into the trade. In every village and small town there are printers in a small way who employ boys. The boys pick up the rudiments of the trade in these places and then

proceed to larger establishments as " improvers." Finally, the best of them obtain work in the large centres of population on the same terms as men who have been formally apprenticed, and the Unions, in order to control them, are bound to admit them to membership, lest the maintenance of the Standard Rate should become impossible.

A similar state of affairs prevails amongst the Engineers. The modern engineering shop contains a large number of machines of gradually increasing complexity. The simplest of these machines can be both safely and usefully worked by boys and unskilled men, who can as safely and as usefully pass on successively to other machines of increasing complexity until they finally emerge as skilled and competent men. It is thus impossible to draw a line between Labourers and Engineers, and the apprenticeship regulations of the Amalgamated Society are more or less futile, the association being obliged, for the sake of its own safety, to admit as a member anyone who is capable of obtaining employment at the Standard Rate. In the same category as the Engineers and Compositors fall the organised workmen of most of the Metal, Building, and Printing trades.

By far the greater number of the skilled trades of this country are what may be called " open trades," that is, trades in which no attempt is made to restrict admission. The most powerful organisations of this class are the Coal-miners and the Cotton Workers' associations.

It would therefore seem that the apprenticeship system plays a very unimportant part in modern industry. Whether we judge it as an educational instrument, or as a means of restricting the entrance to the trades, the system has failed.

Judged as an educational system it has the following defects: 1. It no longer pays the large employers to undertake responsibility for the training of boys, even if premiums are paid, nor does it seem to the boy a profitable transaction to engage himself at a low wage as an apprentice when more highly paid situations are to be had at work not requiring instruction. 2. There is no security that the boy will really be taught a trade, nor that when

taught he will be protected from the competition of others who have not served an apprenticeship. 3. From the point of view of the community the apprenticeship system has this disadvantage, that it leaves outside its scope a large proportion of boys who join the ranks of the unskilled labourer.

But the abandonment of the apprenticeship system, and the desire on the part of those who employ boys at comparatively high wages to get the utmost value from their labour, has resulted in such an extension of the number of divisions of labour, that in many trades production has now been resolved into a large number of mechanical and routine processes, each capable of being performed by boy labour. The boys thus employed are only kept on for a few years, and are then dismissed to make way for other and younger boys. The resulting evil is twofold. In many trades adult labour is being entirely displaced, while the boys are allowed to grow up into men without receiving any skill or training by means of which they can earn a livelihood. As has been already pointed out in Chapter III, such trades are parasitic on the community, and there is little or no justification for their existence. Sir Henry James, arbitrating in 1892 in a dispute in the Shoe trade, admitted the evil of excessive boy labour, and, subject to many exceptions, made an award by which a limit of one boy to three journeymen was imposed. As a permanent solution of the problem the establishment of any universal limit of this kind, either by Collective Bargaining or by Legal Enactment, is insufficient, for it does not relieve the community of its responsibility for the welfare of the boys who are excluded from employment by the setting up of the limit.

The true remedy lies in a raising of the school age and an extension of technical education, together with the adoption in all trades of the system of " Progression " already described as prevalent in the Printing and Engineering trades.

The immediate raising of the age for half-time exemption to fourteen and the gradual raising of the age for full-time exemption to eighteen will, to begin with, cut off the supply

of boy labour at its source, at the same time making possible an adequate provision for the future of the boys. By an amendment of the Factory and Workshops Acts employers should be forbidden to engage boys under the age of sixteen or eighteen (or whatever the age may be) for more than, say, twenty-four hours per week, and should be made responsible for securing their attendance at a technical school for another twenty-four hours per week. Where the exigencies of the industry demanded it, as in the case of Agriculture, the attendance at school and at work might be allowed to extend continuously over periods of weeks or months alternating with each other. The technical schools should not attempt to train the boys in specific trades. The education given should take the form of general hand and eye training, drawing, workshop mathematics, etc., with a certain amount of such physical training as is afforded by games and sports. At the conclusion of the school period, or, it may be, even during the period of his half-time employment, the boy will begin to work at his chosen trade, performing simple duties under the eye of skilled workmen, or perhaps of instructors specially appointed for the duty. The general skill of hand and eye acquired during his years of instruction at the technical school would enable him to acquire rapidly the special skill necessary for the satisfactory performance of the duties allotted to him, so that he would pass rapidly from the simpler kinds of work to the more complex, becoming a skilled craftsman by the time he reached the age of twenty-one.

Apart from any connection with an extensive system of technical education, this system of regulated progression within a trade has obvious advantages over the old system of apprenticeship. It is not exclusive and does not favour monopoly, for it supplies abundant opportunity of picking up a trade to the sharp lad and the unskilled labourer who is ambitious. While it leaves the employer free to select for promotion the best men, it is quite consistent with the Trade Union objects of continuity of livelihood and the maintenance of a decent Standard of Life.

Not only is the system growing, as has been shown,

in the manufacturing industries, but it is largely followed on the railways, in many of the great commercial undertakings managed by corporations or syndicates, and in those branches of the Civil Service, such as the Post Office, where the aristocratic tradition in favour of promotion by seniority does not prevail. There can be little doubt that such a system, applied throughout the whole of our industries, and linked up with an improved system of elementary and technical education, would bring about a marked increase in industrial efficiency, and would re-act favourably on the character and intelligence of the whole population.

CHAPTER VIII

THE FUTURE OF TRADE UNIONS

THE directions in which Trade Union activities tend to develop at the present day make it possible, without venturing very far into the region of prophecy, to predict with some certainty the nature of the services which these organisations will, in the future, render to society.

The internal administration of industry involves three classes of decisions. It is first of all necessary to decide what commodities and services are to be supplied to the community; in other words, the consumer's needs must be ascertained. Then the manner of producing the required commodities, or of performing the required services, must be considered. This involves the settling of such questions as materials, the choice of processes, and the selection of the human agents necessary for the work. Finally, it is necessary to arrange the conditions under which the human agents shall be employed. The decisions of this class cover questions of wages, duration and intensity of toil, sanitation, ventilation, safety, and similar matters.

The only persons capable of arriving at just conclusions regarding the consumer's desires for commodities and services are the middle-men, who may, of course, be either

private capitalists or state officials. Such decisions are not for the Trade Unions to make. The Trade Unionist possesses no special technical knowledge of these matters, and is under the further disqualification that he would, by reason of his position, be naturally biased against changes.

The decisions of the second class are most properly made by the directors of industry, the Trade Unions being again disqualified by reason of their lack of the necessary technical knowledge and their natural bias in favour of whatever exists. Any bias of this kind which the captain of industry may have is very effectually corrected by his desire to satisfy the consumer.

To decide on matters coming under the third head is the special function of Trade Unions. The first-hand knowledge which they possess of working-class life, its needs, its difficulties, and its aspirations, qualifies them for this duty. The function of Trade Unions is therefore seen to be a permanent one, and whether capitalism develops in the direction of a system of trusts, or is superseded by Collectivism, the Trade Union will be one of the principal elements in our industrial constitution. Even under a system of Collectivism with a statutory national minimum, the directors of industry will, as the agents of the consumers, be bound to strive constantly to cheapen production, and as they cannot be in perfect touch with the conditions of life and the needs of the producers, each grade of workers will need to be organised in order to secure the adaptation of the National Minimum to their special conditions, and in order that they may, if necessary, and in the last resort, compel public attention by a strike.

Whether existing industrial conditions continue or a collectivist system is established, Trade Unions will discharge their main function by Collective Bargaining varied by more or less occasional resorts to Legal Enactment. Over the three classes of Trade Unionists, organisers of production, and distributing middle-men, will stand the democratic community whose decision, expressed through Parliament and the National Civil Service, must ever be final. Democracy will not interfere with the

process of Collective Bargaining save to prevent the business of the community being interfered with. But there can be little doubt that the community will more and more frequently, in those cases where Collective Bargaining breaks down, compel the parties to arbitrate. As has been pointed out in Chapter V, the acceptance by democracy of the Doctrine of a Living Wage is, however, an essential condition of success in industrial arbitrations, and we may therefore expect to see the agitation for the Living Wage become an element of prime importance in the Trade Union policy.

In the past, Trade Unions have usually been more active in agitating for higher wages than in demanding improved conditions of labour. The safety and convenience of the community, and, to a large extent the justification of Trade Unionism in the eyes of the community, require that these shortcomings should be corrected. An excessively long working day and circumstances connected with labour which are insanitary or dangerous are no less prejudicial to national efficiency and happiness than insufficient nutrition consequent on a low wage-rate. Nor is it possible to over-emphasise the improvement in personal habits, tastes, and character consequent on substituting for an ugly, dirty, and offensive environment such surroundings as prevail in places like Bournville and Port Sunlight.

It was shown in Chapter III that the natural consequence of the enforcement of the Common Rule in the better-organised trades is ultimately to destroy the trades that are parasitic, though the good thus done is largely neutralised by the growth of other similar industries which spring up in unexpected places, and flourish for a short time at the expense of the nation's manhood and womanhood. Trade Unions may thus serve themselves and the nation by the conscious pursuit of a policy directed towards the elimination of all forms of sweating. While Legal Enactment would probably be most efficacious in rooting out the evil, the organising of the sweated workers is a remedy capable of immediate application. Unfortunately, the workers of this class are, by reason of their poverty,

timidity, and lack of intelligence, almost incapable of self-organisation. Considerations both of humanity and of self-interest therefore prompt the wealthier and more powerful Trade Unions and federations to take upon themselves the task of organising, and even to some extent financing, the workers in the sweated trades with a view to the extension of the area in which the Common Rule prevails, and the bringing of large sections of the industrial army under Trade Union discipline.

It is often urged that the enforcement of a Standard Rate upon the sweated industries would, even if it did not destroy the industries, render unprofitable the employment of old, infirm, and defective workers. With regard to the danger of destruction of the industry it may be observed that by preventing any class of employers from relying on parasitic labour, we may compel those employers to amend their methods. Industries carried on by parasitic labour are, in fact, drawing a flesh and blood bounty from the State, and the withdrawal of such a bounty will, as in the case of the withdrawal of other bounties, stimulate the employers in the trades concerned to greater vigour and skill. Moreover, it is very certain that if more is paid for labour, the labour is worth more, as was seen when slavery was abolished in America, and humane conditions were enforced in the Lancashire Cotton Trade. Undoubtedly many parasitic trades that can now just keep going would cease to exist, but it would seem to follow from the theory of International Trade that there would be a corresponding increase in some other trade, securing to the community a balance to the good on the whole change.

It cannot be denied that the destruction or the reform of the parasitic trades would throw on to the market a large number of persons who are unemployable with profit at Standard Rates. By such unemployables we mean, not the capable workman who, through slackness of trade, is out of work, but the sick, the crippled, the criminals, the incorrigibly idle, the morally deficient, and persons incapable of steady or continuous application. The best regulated society must, of necessity, contain a certain

number of such, but it is ruinous to the nation, it is ruinous to the working classes to leave this class on the labour market, because they compete with the really fit, and, by compelling them to accept a remuneration appropriate only to the unfit, drag them down to the level of the unfit.

Any consideration for the interests of infirm and incapable workers, which leaves them exposed to the force of industrial competition and to the mercies of grasping employers, is therefore, so far as these unfortunates are concerned, a mistaken form of kindness, while it endangers the decent Standard of Life of those who are more fortunate. The soundest policy for the organised workers to pursue is that of advocating the establishment of colonies in which this unemployable residue shall be engaged in producing materials for their own consumption, and not for sale in the open market. Such colonies are already in existence in Belgium and Holland, and though they are not self-supporting, the annual cost per head to the community is not very great, being at Merxplas less than £10. This loss would probably be more than counterbalanced by the diminution in charitable calls and the costs of administering the Criminal Law.

As the power of Trade Unions grows, and the force of public opinion which supports them increases, their reasonable demands will be less frequently resisted by employers. The struggle to maintain and to advance the workers' Standard of Life will therefore become less strenuous, and they will be able to devote a larger share of their energy to increasing the technical efficiency of their members, and in this respect may, in time, come to resemble the professional associations. Indeed, if the future should bring forth some comprehensive scheme of technical education, there seems to be no reason why Trade Unions should not be largely entrusted with its administration.

The Friendly Society activities of Trade Unions will probably decrease except where they are concerned with unemployment. The Old Age Pensions Act and the Workmen's Compensation Act now make provision for old age and accidents, and a Government scheme of insur-

ance against sickness and invalidity is promised. Fluctuations in the demand for labour, caused by the vicissitudes of harvest and changes in the fashions, make a certain amount of unemployment a permanent feature in every modern state. This evil is to be dealt with by a scheme of Insurance financed in part by the State and the employers, and in part by the Trade Unions. The co-administration of this scheme will probably be the only Friendly Society work of importance left for Trade Unions to perform.

We may expect that in the future Trade Unions will show an even greater activity than in the past in the procuring of legislation of an industrial and social character. The advantages of Legal Enactment over Collective Bargaining, as a means of securing benefits to the masses of the people, are so undoubted as to ensure its application in all possible circumstances. A step taken by this means can rarely, if ever, be retraced, for a benefit secured to the workmen by statute cannot again become a subject of dispute. Any raising of the level of the Common Rule by legislation will, at the least, affect uniformly the whole of the trade concerned, and may even apply to the entire community. But the use, by Trade Unions, of the method of Legal Enactment depends for its success on the nature of Trade Union organisation, on the principles on which federations of Trade Unions are established, and on the relation between local Trades Councils and National Trade Assemblies, and the clear differentiation of their functions.

The United Textile Factory Workers' Association of Lancashire is, in respect of its organisation and strict limitation of its purposes, well worth study and imitation. It is a political association of numerous Trade Unions, which, being individually concerned with matters of Collective Bargaining and Insurance, have federated themselves for the sole purpose of remedying grievances for which Parliamentary or governmental interference is required. It consists of: 1. A representative assembly known as the General Council, which is made up of delegates from the various branches of the constituent Trade Unions. 2. A federal executive, known as the Legislative Council, composed of the salaried officials of the separate

Unions. All complaints and grievances are first laid before the Legislative Council which discusses possible remedies, and, where a remedy is practicable, makes a recommendation to the General Council and, with the latter's sanction, calls in the aid of a lawyer to draft the necessary Bill. The association then enters upon a vigorous political campaign—public meetings, articles in the press, interviews with local members of Parliament and Parliamentary candidates, and lobbying, all being resorted to with a view to secure the passing of the Bill.

The methods and organisation possible in the case of an important trade like the Lancashire Cotton Trade, which is localised within a circle of thirty miles' radius drawn round Manchester, cannot, however, be applied successfully to the smaller Trade Unions, or even to the large national associations which, like the Society of Carpenters and others, are formed by the amalgamation of numerous small branches scattered over the length and breadth of the country. The political needs of the workers in these small and scattered trades will be best served by local federations embracing all the trades in the respective localities, and working under the guidance and control of a national federation of all the trades. The existing local Trades Councils and the Trade Union Congress supply the requisite machinery, though its efficiency is somewhat impaired through the failure of its designers to perceive the necessity for a clear definition of the functions of the local and national bodies respectively, and by the failure of the Congress to supply the necessary skilled guidance to its constitutent unions and to the local councils.

It would seem that what is now wanted is a reorganisation of the constitution and procedure of the Trade Union Congress after the model of the United Textile Factory Workers' Association. Now that the Parliamentary Labour Party is an established fact, it should be recognised that the true function of the Trade Union Congress is the advocacy, not of general measures of social reform, but of particular measures desired by its constituent Trade Unions as necessary in the interests of the trade which they exist to protect. The Parliamentary Committee of the Congress

should be reconstituted so as to consist entirely, or mainly, of the chief salaried officials of the Unions represented in the Congress. These should not be members of Parliament, and should confine themselves entirely to the official duties arising out of their connection with the Congress and with their respective Unions. Where any trade labours under a difficulty or grievance the Parliamentary Committee should take no action until the matter has been brought before it by the central executive of the national union principally concerned. The Parliamentary Committee would, however, on being approached by a national union, at once consult with the officers of that union and take expert advice as to the extent of the grievance, and the possibility and form of remedy. The remedy being decided on, formal proposals would be submitted to the Trade Union Congress, whose discussions would reveal any divergence of interest or policy among the unions. Congress having given its approval, a Bill would be drafted and a political agitation commenced.

At this stage the real usefulness of the Local Trades Councils appears. In matters of national politics these bodies should not attempt to frame Parliamentary programmes. Their function is to explain and advocate locally the measures put forward by the Congress on behalf of the whole Trade Union Movement. The Parliamentary Committee should keep itself in close touch with the Local Councils, supplying them with all possible information regarding the work of the Congress, guiding and instructing them, and above all seeking their active co-operation.

Apart from political work of national scope the Trades Council has a wide local field of activity. It should, in a friendly spirit, assist as far as possible the work of the factory and mines inspectors, offering criticisms where necessary and taking effective steps to protest against abuse and neglect of powers. In such matters it might often be advisable to obtain expert advice and assistance through the staff of the Parliamentary Committee. Municipal Politics would, of course, lie entirely within their sphere, and they would be perfectly free to frame their own programmes of reforms, and, where necessary, to

call upon the Parliamentary Committee for support and guidance.

The political functions of Trade Unions cannot, however, be restricted to the procuring of legislative measures for the protection of purely trade interests. The right to be heard, to be consulted, to have a point of view on all political questions, domestic and imperial, cannot, without a denial of the democratic principle on which our government is based, be withheld from the body of wage-earners who constitute more than eighty per cent of the inhabitants of this country. Democracy is coming to mean more than the consent of the people to be governed; it tends more and more to denote a form of government under which the first consideration of statesmen and politicians must be the advancement of the interests of that class which includes far more of the King's subjects than any other class.

There can be no other body of men in the kingdom better qualified than the leaders of the Trade Union Movement to give expression to the needs of the wage-earning class. Nor can there be any so well fitted to judge of the effectiveness of legislative measures designed to benefit this class, or to draw attention to defects and abuses in administration. Housing Reform, the Liquor Traffic, the Factories, Mines, Railways, and Merchant Shipping Acts, Shop Hours, Truck, Arbitration and Conciliation, Wages Boards, the working of the Inferior Courts, Education, Unemployment, the Poor Law, and Popular Recreations and Amusements, are all matters in which society needs first-hand knowledge and guidance. To supply such knowledge and guidance to the House of Commons seems to be the special function of the Parliamentary Labour Party as distinct from the Trade Union Congress, and the successful working of the whole social organisation, no less than the protection of the industrial interests of the wage-earners, demands for that party a permanent place in our political system.

In urging the necessity for direct Labour representation in Parliament, Trade Unionists are asking for no privilege that is refused to the other " interests " in the community. Railway, banking, and insurance companies, shipping

companies, coal and iron companies, and innumerable other enterprises are already directly represented in the House of Commons by their chairmen, directors, trustees, managers, secretaries, and solicitors, whose salaries are admittedly fixed at sums sufficient to cover the expenses of election to and regular attendance in Parliament. More than a quarter of the members of the House of Commons are politicians of this class. How then can it be improper for organisations of workmen to take steps to secure the return to Parliament of men who, while discharging all their duties to their constituents, shall also watch over the interests of Labour, in the same way as these others seek to promote commercial, manufacturing, and similar interests?

It is said that an injustice is done to the Liberal or Conservative Trade Unionist when the funds of his Trade Union are devoted to securing the return to Parliament of a person whose political views are opposed to his own. The weakness of this objection can best be shown by attempting to apply it to the case of the chairman of a railway company who sits in Parliament, and whose salary is avowedly calculated on a basis sufficiently wide to enable him to defray the expenses incidental to a Parliamentary seat. A Liberal shareholder in the company who objected to a portion of the company's income being spent in maintaining in Parliament a Conservative politician whose views he held in abhorrence would be told that it was necessary to have someone in Parliament to watch over the company's interests, and that so long as the company's representative faithfully and effectively represented those interests, his political views were, to the shareholders, a matter of indifference. Now the Trade Union member of Parliament is returned to Parliament and maintained there to promote the interests of Trade Unionists. But the constituency, no less than the Trade Union, has claims upon him, and if he discharges his obligations to those who pay him, he must be free to represent the political views of the majority of the electors in his constituency. After all, the Trade Union merely makes it possible for a Labour candidate to offer himself

for election; it is the constituency which elects him, and if the constituency demands a representative of a certain political colour, the Trade Unionist of another colour has no real grievance.

CHAPTER IX

THE LEGAL STATUS OF THE TRADE UNION

A MATTER of even greater importance than the Parliamentary Representation of Trade Unions is raised by the Osborne case, for by the decision of the House of Lords in that case the constitution of the Trade Union has been virtually destroyed. Trade Unions which, hitherto, had been regarded as voluntary associations of individuals, free to do all that an individual may lawfully do, are by that decision declared to be corporate bodies formed under statute. But a corporate body created by a statute cannot lawfully do anything outside the purposes for which it has been incorporated by the statute. Therefore, as the Trade Union Acts of 1871 and 1876 constitute, to use the words of the Earl of Halsbury, the Charter of Incorporation of Trade Unions, the purposes for which these bodies were incorporated are to be found in the definition of a Trade Union contained in the Act of 1876.

According to this definition, a Trade Union is a combination for regulating the relations between workmen and masters, or between workmen and workmen, or between masters and masters, or for imposing restrictive conditions on the conduct of any trade or business. A Trade Union is thus forbidden to engage in any form of activity which does not come within this definition, even though its members are unanimous in desiring it. At a single blow the educational work of Trade Unions, their activity in municipal affairs, their political agitations, the sending of deputations to Parliament, and even their connection with local Trades Councils and the Trade Union Congress are declared illegal.

A brief notice of the development of legal notions regarding corporations may be interesting as showing

how the decision in Osborne's case was arrived at, and may, at the same time, be useful as indicating the direction in which a permanent solution of the difficulty may be found. In England, according to Blackstone, the King's consent is absolutely necessary to the erection of any corporation, though an implied consent is to be found in corporations which exist by force of the common law, to which our former kings are supposed to have given their concurrence, common law being nothing else but custom arising from the universal agreement of the whole community.

Under the civil law of Rome corporations could be created by the mere act and voluntary association of their members, provided that their purposes were not contrary to law; to such a view the pressure of events in England is almost imperceptibly forcing English lawyers. In everyday life clubs, committees, groups, circles, societies, associations, unions, and combinations for educational, social, political, charitable, commercial and almost every conceivable purpose—all in reality corporate entities—are constantly, without any act of the Legislature, coming into being. These, though not always having the power to sue, and not always being under the liability to be sued in the Courts, nevertheless possess all the other essential characteristics of corporations, such as perpetual succession, common property, and a common will.

It may even be urged that the various bodies enumerated come well within the scope of legal learning. A modern lawyer, Mr. C. T. Carr, in his *Law of Corporations*, at p. 119, writes as follows: "But besides the express authorisation given by the King, there were in the second place certain forms of indirect or conclusive authorisation. . . . The corporation by implication seems the frankest form of unwarranted and unlicensed assumption of corporate franchises. It has its counterpart in the *de facto* corporation of America, and is a serious obstacle to a dogmatic rule."

At p. 123 he says: "Where a body of men had, almost from time immemorial, enjoyed and not abused collective privileges of great value, much hardship would

have befallen such a body if it had been deprived of its corporate existence owing to the currency of new-fangled ideas about the royal prerogative. Thus the doctrine that corporations could exist without the authority of the King was of great value throughout the country and by its convenience justified its vogue."

Though many Trade Unions are, as every student of Trade Union history knows, "bodies of men who, from time immemorial, have enjoyed and not abused collective privileges of great value," the excessive caution of English judges has caused them to refuse to Trade Unions the full status of corporations, though it has not prevented them from laying upon these bodies all the disabilities of corporations. As was argued in the Taff Vale case, the only entities known to the common law as having the right to sue and the liability to be sued were the individual and the corporation. The Legislature has, however, recognised the Trade Union, and has bestowed on it the capacity for owning property. This capacity for owning property and the necessity for acting by agents are the two essential qualities of a Trade Union which are also essential qualities of a corporation. For these reasons the Trade Union is now styled a quasi-corporation.

Now in the olden times corporations were regarded as having most of the powers of ordinary citizens, and as being under the same obligations. But during the last seventy years these powers and obligations have been greatly restricted in the case of certain corporations by the birth and growth of the doctrine of *ultra vires*. "The doctrine of *ultra vires*," says Mr. Carr, "has its special application to the corporations which have arisen under the Companies Acts. These bodies resemble partnerships, and the doctrine resembles the doctrine of partnership law. The limitation is in the interest of public policy. Where a body is incorporated to perform A, B, and C classes of acts, it cannot be permitted so to infringe the conditions of its incorporation as to perform X, Y, and Z classes of acts. Industrial enterprise is being more and more undertaken by corporations with transferable shares which the public is encouraged to buy. It is therefore more and more im-

portant to have some guarantee that the concern in which members of the public invest shall not make sudden and uncertain changes in its activity and objects. The public is entitled to hold a registered company to its registered business."

Having arrived at the conclusion that the self-constituted Trade Union is a quasi-corporation, the Courts apply to these self-constituted bodies this doctrine of *ultra vires*, a doctrine peculiarly applicable to joint-stock companies formed under the Companies Acts. The Earl of Halsbury speaks of the Trade Union Acts as a Charter of Incorporation, declares that a Trade Union can do nothing that is not sanctioned by the Acts, and looks at the definition of a Trade Union contained in the Acts in order to determine what the purposes of a Trade Union are.

The fallacy of the reasoning is obvious. Trade Unions, if indeed they be corporations, are not statutory corporations but corporations by implication, which existed long before 1871 and which engaged in many activities of which no mention is made in the Trade Union Acts. These Acts gave legal recognition to Trade Unions and conferred upon them certain privileges. Bearing in mind that Trade Unionists had conducted a powerful agitation with a view to securing legal recognition, that the most enthusiastic leaders and defenders of the Trade Union Movement were called into consultation in the drafting of the Trade Union Acts, and that Mr. Thomas Burt, the representative of the Northumberland Miners, took a prominent part in passing them, it is inconceivable that the Acts would have received such support had they been intended to limit the activities of Trade Unions to the objects named in the definition. It is inconceivable that Mr. Burt would have voted for an Act which not only made illegal the payment of his own salary, but also rendered impossible the existence of Trades Councils and the Trade Union Congress, and put an end to the Trade Union practice of "lobbying" and other similar political devices.

It is far more reasonable to suppose that the promoters and supporters of the Acts took it for granted that Trade Unions were henceforth to pursue, within the protection

of the law, that same course of action which they had hitherto pursued as associations lacking legal recognition. On such a view of the matter it clearly appears that the only purpose of the definition was to declare what types of associations were henceforth to enjoy the protection of the law while performing their accustomed functions. With those functions the law had no concern provided they were lawful.

Whether Trade Unions are corporations directly created by statute, or, being self-constituted, are incorporated by implication, is now only a matter of academic interest, for even if the latter supposition be correct, no legislative act can restore them to that position in our social organisation which they have hitherto naturally and spontaneously occupied. The disabilities laid upon them by the Osborne decision can only be removed by a legislative act specifically conferring on these bodies powers to perform the various acts which experience has shown to lie within the scope of the Trade Union purpose. Such specific powers being given by Parliament, the operations of Trade Unions will still be subject to the control of the Courts, which will inevitably apply to them the doctrine of *ultra vires* as they apply it to joint-stock companies and other corporations.

It would therefore seem that Trade Unionists must be prepared to put their organisations on the same plane as registered companies. The new Trade Union Act, if it is to deal with the problem in a thorough and permanent fashion, will enumerate or define the purposes, objects, and functions of Trade Unions, and perhaps their methods —this for the guidance of the Chief Registrar of Friendly Societies. A Trade Union applying to be registered may be expected to prepare a Memorandum of Association and Articles of Association in which its objects and methods are set forth, and which must be submitted to the Registrar for approval and registration. It should, however, in the same way as a registered company, be free to amend its Memorandum of Association from time to time.

Under Section 9 of the Companies (Consolidation) Act, 1908, a company may, by special resolution, alter the

provisions of its Memorandum of Association with respect to the objects of the company, so far as may be required to enable it to carry on its business more economically or efficiently; or to attain its main purpose by new or improved means; or to carry on some business which, under existing circumstances, may be conveniently or advantageously combined with the business of the company. The alteration is not to take effect until and except in so far as it is confirmed, on petition, by the Court.

A similar power given to the Trade Union would prevent the Memorandum of Association from imposing "hard and fast restrictive limits which might cramp the development and energies, and destroy the natural movements of the living organism."

THE END

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